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EXAMINER

ROHRHOFF, DANIEL J

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/582,209
Filing Date: June 09, 2006
Appellant(s): BRACHERT, RAINER

Andre Pallapies
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/19/2010 appealing from the Office action mailed 12/16/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-14 are cancelled. Claims 14-23, 29-31 and 34-38 are rejected. Claims 24-28, 32 and 33 have been objected to as containing allowable subject matter but being dependent on rejected claims.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,471,709	Lanzani	12-1995
3,555,733	Horgan, Jr.	4-1969
5,113,628	Richardson et al.	5-1992
708,367	Mansfeld	5-1954

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

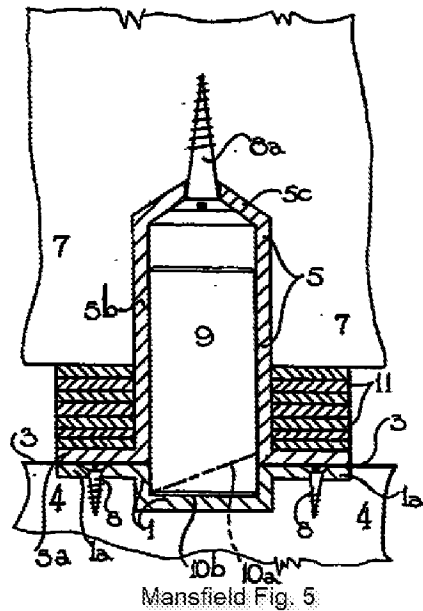
Claims 15-19, 21-23, 29-31 & 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzani (US patent 5,471,709) in view of Mansfeld (GB 708,367).

Regarding claim 15, Lanzani discloses a housing for a household appliance, comprising a body (4) and at least one door (6 & 7), which is connected to the body in a manner that enables it to swivel due to the provision of at least one first and one second multiple-articulation hinge (1 located at the top and bottom of door), wherein the door is supported on an upper supporting surface (5b of the top hinge) of the first multiple-articulation hinge and a lower supporting surface (5b of the bottom hinge) of the second multiple-articulation hinge. Lanzani does not disclose a shim inserted between the door and at least one of the supporting surfaces. Mansfeld teaches at least one shim (11) inserted between a door (7) and a supporting surface (3). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the hinges of Lanzani to include a shim between the supporting surface of the hinge and the door as taught by Mansfeld, since it would have allowed for vertical adjustment of the door.

Regarding claim 16, Lanzani, as modified by Mansfeld, does not teach a plurality of shims between the supporting surfaces and the door. Mansfeld further teaches a plurality of shims (11 in Fig. 5) inserted between the supporting surfaces and the door (Fig. 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the hinges of Lanzani to include a plurality of shims between the

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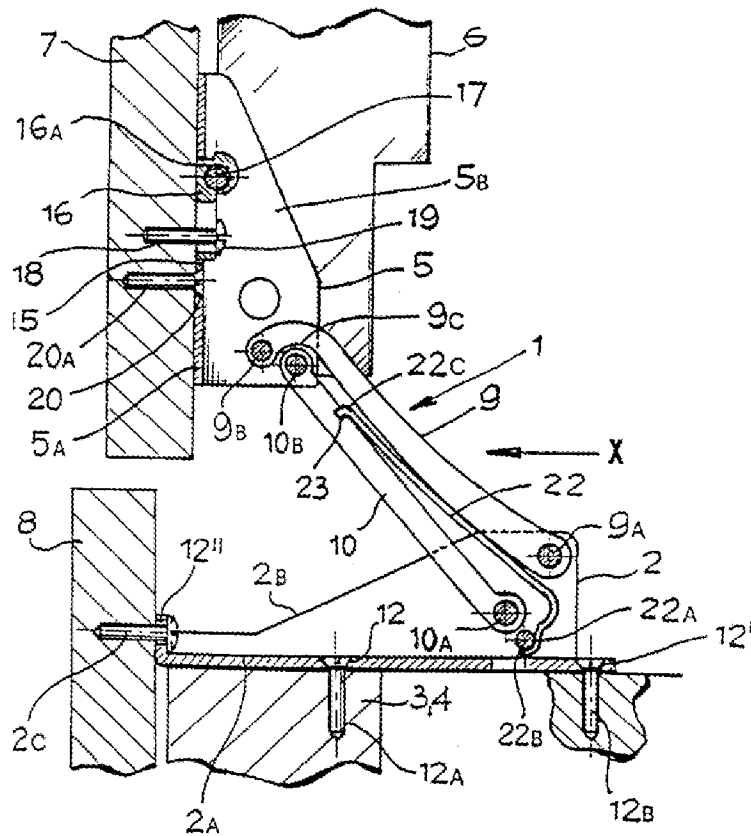
supporting surfaces and the door as taught by Mansfeld, since it would have allowed for vertical adjustment of the door.



Regarding claim 17, Lanzani, as modified by Mansfeld, teaches a housing wherein the supporting surfaces are arranged on a support element (5) which is disposed on a hinge arm (10) of the first and second multiple-articulation hinges which

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is coupled to the door (Fig. 2).

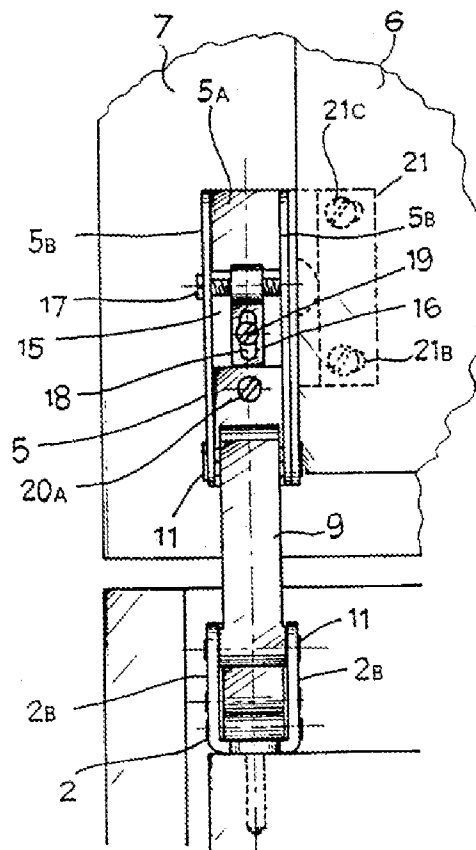


Lanzani Fig. 2

Regarding claim 18, Lanzani, as modified by Mansfeld, does not teach a housing wherein the shims have a rectangular basic outline and are made of plastic injection molding. It would have been an obvious manner of design choice to one of ordinary skill in the art at the time of the invention to modify the shims of Lanzani, previously modified by Mansfeld, into the shape of a rectangle to match the shape of the support element (5), since it would have hidden the shim between the door and the support element. It would have been an obvious matter of material selection to one of ordinary skill in the art at the time of the invention to make the shims of a plastic injection molding, since it would have lowered cost and weight.

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Regarding claim 19, Lanzani, as modified by Mansfeld, teaches a housing wherein a heat-insulating body of the door (6) is arranged between the supporting surfaces of the multiple-articulation hinge (Fig. 2) and the multiple-articulation hinges are concealed behind edge sections of the door (7 in Fig. 3) projecting over the body (Fig. 3).



Lanzani Fig. 3

Regarding claim 21, Lanzani, as modified by Mansfeld, discloses a housing wherein the supporting surface is connected to the door by means of at least one screw (21c) on at least one of the multiple-articulation hinges (Fig. 3).

Regarding claim 22, Lanzani, as modified by Mansfeld, teaches a housing wherein the screw extends through an oblong hole (21b) of the supporting surface (Fig. 3).

Regarding claim 23, Lanzani, as modified, teaches a housing wherein the oblong hole is aligned parallel to the door (Fig. 3 shows 21b is parallel to the front face of the door).

Regarding claim 29, Lanzani discloses a refrigerator comprising: a housing including a body (4) and a door (6 & 7); first and second multiple-articulation hinges (1 located at the top and bottom of door) coupling the door to the body in a manner that enables the door to swivel, wherein the door is supported with an upper supporting surface (5b of the top hinge) of the first multiple-articulation hinge and a lower supporting surface (5b of the bottom hinge) of the second multiple-articulation hinge. Lanzani does not disclose at least one shim removably inserted between the door and one of the supporting surfaces. Mansfeld teaches at least one shim (11) removably inserted between a door (7) and a supporting surface (3). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the hinges of Lanzani to include a shim between the supporting surface of the hinge and the door as taught by Mansfeld, since it would have allowed for vertical adjustment of the door with respect to the body.

Regarding claim 30, Lanzani, as modified by Mansfeld, does not disclose a refrigerator further comprising a plurality of shims removably inserted between the supporting surfaces and the door, the position of the door with respect to the body being

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adjustable in a vertical direction in response to the number of shims disposed between the supporting surfaces and the door. Mansfeld further teaches a plurality of shims (11 in Fig. 5) removably inserted between a supporting surfaces (3) and a door (7), the position of the door with respect to a body (4) being adjustable in a vertical direction in response to the number of shims disposed between the supporting surfaces and the door (Col. 3: lines 44-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the refrigerator of Lanzani, previously modified by Mansfeld, to include a plurality of shims between the supporting surfaces of the door to adjust the position of the door with respect to the body as taught by Mansfeld, since it would have allowed the door to align with the body.

Regarding claim 31, Lanzani, as modified by Mansfeld, discloses a refrigerator comprising a mounting bracket (16) coupled between the first multiple-articulation hinge and the door (Fig. 2) and permitting the door to be adjusted in a horizontal direction with respect to the body (the abstract reads the second support member also includes adjustment structure (16) enabling adjustment of the horizontal...position of the panel (7) relative to the door (6). Since the examiner is considering the door to comprise of the door 6 and its front panel 7 to door is obviously adjusting its horizontal position relative to the body).

Regarding claim 34, Lanzani, as modified by Mansfeld, does not disclose the shim inserted between the door and the supporting surface to cause the door to be adjusted in a vertical direction with respect to the body. Mansfeld further teaches the shims (11) inserted between the door (7) and the supporting surface (3) to cause the

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door to be adjusted in a vertical direction with respect to a body (4) (Col. 3: lines 44-57).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Lanzani, previously modified by Mansfeld, to include a shim between the door and the supporting surfaces as taught by Mansfeld, since it would have allowed the door to be adjusted vertically relative to the body.

Regarding claim 35, Lanzani discloses a housing for a cabinet-like household appliance, comprising: a body (4); at least one door (6 & 7) coupled to the body in a manner that enables the at least one door to swivel with respect to the body, the at least one door being vertically adjustable with respect to the body (the abstract reads the second support member also includes adjustment structure enabling adjustment of the ... vertical position of the panel (7) relative to the door (6). Since the examiner is considering the door to comprise the door 6 and its front panel 7 to door is obviously vertically adjusting relative to the body); at least one first multiple-articulation hinge (1 at the bottom of the body), wherein a lower end of the door is supported on an upper supporting surface (5b of the bottom hinge) of the first multiple-articulation hinge; at least one second multiple-articulation hinge (1 at the top of the body), wherein an upper end of the door is supported by a lower supporting surface (5b of the top hinge) of the second multiple-articulation hinge. Lanzani does not disclose at least one shim between the lower end of the door and the upper supporting surface of the first multiple-articulation hinge, and the upper end of the door and the lower supporting surface of the second multiple-articulation hinge, the at least one shim vertically adjusting a position of the door with respect to the body. Mansfeld teaches at least one shim (11) between the

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lower end of a door (7) and the upper supporting surface (1a) of a hinge (1), the at least one shim vertically adjusting a position of the door with respect to the body (Col. 3: lines 44-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Lanzani to include at least one shim between the upper and lower ends of the door and the supporting surface of the multiple articulation hinges to adjust the vertical position of the door as taught by Mansfeld, since it would have allowed the door to align with the body.

Regarding claim 36, Lanzani, as modified by Mansfeld, does not teach a housing wherein the at least one shim includes a plurality of shims, wherein at least one first shim of the plurality of shims is between the lower end of the door and the upper supporting surface of the first multiple-articulation hinge, and wherein at least one second shim of the plurality of shims is between the upper end of the door and the lower supporting surface of the second multiple-articulation hinge. Mansfeld further teaches a plurality of shims (11 in Fig. 5) between the lower end of a door (7) and an upper supporting surface (1a) of a hinge (1) (Fig. 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Lanzani, previously modified by Mansfeld, to include a plurality of shims between the lower end of the door and the upper supporting surface of the first multiple-articulation hinge as taught by Mansfeld, since it would have adjusted the vertical position of the door. It also would have been obvious to one of ordinary skill in the art at the time of the invention to include shims between the upper end of the door and the lower supporting surface of

the second multiple-articulation hinge since it is merely duplicating the hinge from the bottom end of the door.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzani in view of Mansfeld and further in view of Richardson et al. (US patent 5,113,628). Regarding claim 20, Lanzani, as modified by Mansfeld, does not teach a glass door. Richardson et al. teaches a housing wherein an outer wall of the door is formed by a glass pane (Col 2: 46). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the door of Lanzani, previously modified by Mansfeld, to include a glass pane as taught by Richardson et al., since it would have allowed the user to see inside the housing.

Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzani in view of Mansfeld and further in view of Horgan, Jr. (US patent 3,555,733). Regarding claim 37, Lanzani, as modified by Mansfeld, does not teach a housing wherein the plurality of shims includes a predetermined total number of shims between the lower end of the door and the upper supporting surface of the first multiple-articulation hinge, and the upper end of the door and the lower supporting surface of the second multiple-articulation hinge. Horgan, Jr. teaches a predetermined total number of shims (28 & 29) between left and right support surfaces of a hinge (Fig. 3) (Col. 2: lines 51-55). While this teaches horizontal adjustment it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Lanzani, previously modified by Mansfeld, wherein the plurality of shims includes a predetermined total number of shims between the lower end of the door and the upper

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supporting surface of the first multiple-articulation hinge, and the upper end of the door and the lower supporting surface of the second multiple-articulation hinge as taught by Hogan, Jr., since it would have allowed the position of the door to be set relative to the body.

Regarding claim 38, Lanzani, as modified by Mansfeld and Horgan, Jr., does not teach a housing wherein a number of the at least one first shim of the plurality of shims is different than a number of the at least one second shim of the plurality of shims. Horgan, Jr. further teaches a number of the at least one first shim (28) is different than a number of the at least one second shim (29) (Col. 2: lines 51-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Lanzani, previously modified by Mansfeld and Horgan, Jr., wherein a number of the at least one first shim of the plurality of shims is different than a number of the at least one second shim of the plurality of shims as taught by Horgan, Jr., since it would have allowed the vertical position of the door to be adjusted.

(10) Response to Argument

Regarding Appellant's argument stating Lanzani has nothing to do with adjusting the door with respect to the body of the refrigerator, the Examiner disagrees. Since the door consists of panels (6 & 7) an adjustment made to either panel will affect the position of the door relative to the body, therefore when an adjustment is made to panel (7), the position of the door is changing relative to the body (4).

Regarding Appellant's arguments stating precise adjustability of the refrigeration device door (6) is not necessary since the furniture panel (7) can be adjusted with respect to the door (6) and one of ordinary skill in the art would not have been motivated to modify Lanzani in view of Mansfeld the Examiner disagrees. Adding another means for vertically adjusting the door (shims of Mansfeld) allows the door to be installed at approximately the desired height during manufacture using the shims taught by Mansfeld and then the door could be precisely adjusted at the point of installation without having to remove the door from the hinges.

Regarding Appellant's arguments stating the Examiner's modification of Lanzani in view of Mansfeld would result in additional parts, and cost to provide a duplicate function already performed by Lanzani, the examiner contends that cost and additional parts are not a factor in determining patentability. One of ordinary skill in the art would see the advantages of having two means for adjustability and these advantages would be justification for the additional cost and parts.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/DAN ROHRHOFF/

Examiner, Art Unit 3637 6/14/2010

/Janet M. Wilkens/

Primary Examiner, Art Unit 3637

Conferees:

Janet Wilkens/JW/

Darnell Jayne/DJ/